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SENATE BILL 337
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Short Title: NC Public Charter School Board.

(Public)

Sponsors:

Referred to:

March 19, 2013

A BILL TO BE ENTITLED

AN ACT TO CREATE THE NORTH CAROLINA PUBLIC CHARTER SCHOOLS BOARD
AND MAKE OTHER CHANGES TO CHARTER SCHOOL LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 115C-238.29A reads as rewritten:

"§ 115C-238.29A. Purpose of charter schools and establishment of North Carolina Public Charter Schools Board.

(a) Purpose of Charter Schools. – The purpose of this Part is to authorize a system of charter schools to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently of existing schools, as a method to accomplish all of the following:

- (1) Improve student learning;
- (2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as at risk of academic failure or academically gifted;
- (3) Encourage the use of different and innovative teaching methods;
- (4) Create new professional opportunities for teachers, including the opportunities to be responsible for the learning program at the school site;
- (5) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and
- (6) Hold the schools established under this Part accountable for meeting measurable student achievement results, and provide the schools with a method to change from rule-based to performance-based accountability systems.

(b) North Carolina Public Charter Schools Board. – There is created the North Carolina Public Charter Schools Board, hereinafter referred to in this Part as the Charter Board. The Charter Board shall be located administratively within the Department of Public Instruction but shall exercise its powers and duties independently of the State Board of Education and Department of Public Instruction, except as provided in this section.

- (1) Purpose. – The purpose of the Charter Board is to authorize and oversee high-quality public charter schools throughout the State, consistent with the purposes of this Part, and to exercise authority for approval of any charter applicant.



- 1 (2) Membership. – The State Superintendent of Public Instruction shall be the
2 secretary of the Charter Board and a nonvoting member. The Charter Board
3 shall consist of the following 11 voting members:
4 a. Three members appointed by the Governor.
5 b. Three members appointed by the General Assembly upon the
6 recommendation of the President Pro Tempore of the Senate, in
7 accordance with G.S. 120-121.
8 c. Three members appointed by the General Assembly upon the
9 recommendation of the Speaker of the House of Representatives, in
10 accordance with G.S. 120-121.
11 d. The State Treasurer or the Treasurer's designee.
12 e. The Lieutenant Governor or the Lieutenant Governor's designee.
13 (3) Qualifications of members. – Members appointed to the Charter Board shall
14 collectively possess strong experience and expertise in public and nonprofit
15 governance, management and finance, public school leadership, assessment,
16 curriculum and instruction, public charter schools, and public education law.
17 All appointed members of the Charter Board shall have demonstrated an
18 understanding of and a commitment to charter schools as a strategy for
19 strengthening public education.
20 (4) Terms of office and vacancy appointments. – Appointed members shall
21 serve four-year terms of office beginning on July 1. No appointed member
22 shall serve more than eight consecutive years. Vacancy appointments shall
23 be made by the appointing authority for the remainder of the term of office.
24 (5) Officers. – The Charter Board shall annually elect a chair and a vice-chair
25 from among its membership. In the absence of the chair, the vice-chair shall
26 preside over the Charter Board's meetings. A majority of the Charter Board
27 constitutes a quorum. The Charter Board shall adopt rules to govern its
28 proceedings.
29 (6) Meetings. – Meetings of the Charter Board shall be held upon the call of the
30 chair or the vice-chair with the approval of the chair.
31 (7) Expenses. – Members of the Charter Board shall be reimbursed for travel
32 and subsistence expenses at the rates allowed to State officers and
33 employees by G.S. 138-6(a).
34 (8) Removal. – Any appointed member of the Charter Board may be removed
35 by a vote of at least two-thirds of the members of the Charter Board at any
36 duly held meeting for any cause that renders the member incapable or unfit
37 to discharge the duties of the office.
38 (9) Office of Charter Schools. – The Office of Charter Schools shall be the
39 principal administrative unit under the direction of the Charter Board. The
40 Department of Public Instruction shall provide staff, offices, office
41 equipment, and meeting space to the Charter Board and Office of Charter
42 Schools.
43 (10) Powers and duties. – The Charter Board shall have the following duties:
44 a. To provide technical assistance, through the Office of Charter
45 Schools and the Department of Public Instruction, to charter school
46 applicants and to charter schools that are approved under this Part.
47 b. To adopt rules in accordance with Article 2A of Chapter 150B of the
48 General Statutes regarding all aspects of charter school operation,
49 including time lines, standards, and criteria for acceptance and
50 approval of applications, monitoring of charter schools, and grounds
51 for revocation of charters.

- 1 c. To oversee the process for accepting and approving applications for
2 charters and to make final approval of charter applications.
3 d. To oversee the process for monitoring the operation of charter
4 schools with the assistance and counsel of staff from the Department
5 of Public Instruction.
6 e. To take any actions regarding a charter school, including renewals of
7 charters, nonrenewals of charters, and revocations of charters.
8 f. To undertake any duties and responsibilities consistent with the
9 above powers and duties and incident thereto.

10 (11) The State Board shall have the authority to veto by a three-fourths vote any
11 action adopted by vote of the Charter Board if the State Board's veto vote is
12 taken within 45 days of the date the Charter Board voted to adopt the
13 action."

14 **SECTION 1.(b)** G.S. 115C-238.29B reads as rewritten:

15 "**§ 115C-238.29B. Eligible applicants; contents of applications; submission of applications**
16 **for approval.**

17 (a) Any ~~person, group of persons, or~~ nonprofit corporation seeking to establish a charter
18 school may apply to the Charter Board to establish a charter school. If the applicant seeks to
19 convert a public school to a charter school, the application shall include a statement signed by a
20 majority of the teachers and instructional support personnel currently employed at the school
21 indicating that they favor the conversion and evidence that a significant number of parents of
22 children enrolled in the school favor conversion.

23 (b) The application shall contain at least the following information:

- 24 (1) A description of a program that implements one or more of the purposes in
25 G.S. 115C-238.29A.
26 (2) A description of student achievement goals for the school's educational
27 program and the method of demonstrating that students have attained the
28 skills and knowledge specified for those student achievement goals.
29 (3) The governance structure of the school including the names of the ~~proposed~~
30 initial members of the board of directors of the nonprofit, tax-exempt
31 corporation and the process to be followed by the school to ensure parental
32 involvement.
33 (3a) The local school administrative unit in which the school will be located.
34 (4) Admission policies and procedures.
35 (5) A proposed budget for the school and evidence that the financial plan for the
36 school is economically sound.
37 (6) Requirements and procedures for program and financial audits.
38 (7) A description of how the school will comply with G.S. 115C-238.29F.
39 (8) Types and amounts of insurance coverage, including bonding insurance for
40 the principal officers of the school, to be obtained by the charter school.
41 (9) The term of the charter.
42 (10) The qualifications required for individuals employed by the school.
43 (11) The procedures by which students can be excluded from the charter school
44 and returned to a public school. Notwithstanding any law to the contrary,
45 any local board may refuse to admit any student who is suspended or
46 expelled from a charter school due to actions that would lead to suspension
47 or expulsion from a public school under G.S. 115C-390.5 through
48 G.S. 115C-390.11 until the period of suspension or expulsion has expired.
49 (12) The number of students to be served, which number shall be at least 65, and
50 the minimum number of teachers to be employed at the school, which
51 number shall be at least three. However, the charter school may serve fewer

1 than 65 students or employ fewer than three teachers if the application
2 contains a compelling reason, such as the school would serve a
3 geographically remote and small student population.

4 (13) Information regarding the facilities to be used by the school and the manner
5 in which administrative services of the school are to be provided.

6 (14) Repealed by Session Laws 1997-430, s. 1.

7 (e) ~~An applicant shall submit the application to a chartering entity for preliminary
8 approval. A chartering entity may be:~~

9 (1) ~~The local board of education of the local school administrative unit in which
10 the charter school will be located;~~

11 (2) ~~The board of trustees of a constituent institution of The University of North
12 Carolina, so long as the constituent institution is involved in the planning,
13 operation, or evaluation of the charter school; or~~

14 (3) ~~The State Board of Education.~~

15 ~~Regardless of which chartering entity receives the application for preliminary approval, the
16 State Board of Education shall have final approval of the charter school.~~

17 ~~Notwithstanding the provisions of this subsection, if the State Board of Education finds that
18 an applicant (i) submitted an application to a local board of education and received final
19 approval from the State Board of Education, but (ii) is unable to find a suitable location within
20 that local school administrative unit to operate, the State Board of Education may authorize the
21 charter school to operate within an adjacent local school administrative unit for one year only.
22 The charter school cannot operate for more than one year unless it reapplies, in accordance with
23 subdivision (1), (2), or (3) of this subsection, and receives final approval from the State Board
24 of Education.~~

25 ~~(d) Unless an applicant submits its application under subsection (c) of this section to the
26 local board of education of the local school administrative unit in which the charter school will
27 be located, the applicant shall submit a copy of its application to that local board within seven
28 days of its submission under subsection (c) of this section. The local board may offer any
29 information or comment concerning the application it considers appropriate to the chartering
30 entity. The local board shall deliver this information to the chartering entity no later than
31 January 1 of the next calendar year. The applicant shall not be required to obtain or deliver this
32 information to the chartering entity on behalf of the local board. The State Board shall consider
33 any information or comment it receives from a local board and shall consider the impact on the
34 local school administrative unit's ability to provide a sound basic education to its students when
35 determining whether to grant preliminary and final approval of the charter school.~~

36 (e) The Charter Board shall establish reasonable fees for initial and renewal charter
37 applications in accordance with Article 2A of Chapter 150B of the General Statutes. The fees
38 collected under this section shall be placed in a special fund to be designated the "Charter
39 Application Fund" and shall be used under the supervision and direction of the Charter Board
40 for the administration of this Part. No application fee shall be refunded in the event the
41 application is rejected or the charter is revoked."

42 **SECTION 1.(c)** G.S. 115C-238.29C is repealed.

43 **SECTION 1.(d)** G.S. 115C-238.29D reads as rewritten:

44 **"§ 115C-238.29D. Final approval of applications for charter schools.**

45 (a) ~~The State Charter Board may grant final approval of an application if it finds (i) that~~
46 ~~the application meets the requirements set out in this Part ~~or~~ and such other requirements as may~~
47 ~~be adopted by the State Board of Education Charter Board, (ii) that the applicant has the ability~~
48 ~~to operate the school and would be likely to operate the school in an educationally and~~
49 ~~economically sound manner, and (iii) that granting the application would achieve one or more~~
50 ~~of the purposes set out in G.S. 115C-238.29A. The State Board shall act by March 15 of a~~
51 ~~calendar year on all applications and appeals it receives prior to February 15 of that calendar~~

1 ~~year.~~In reviewing applications for the establishment of charter schools within a local school
2 administrative unit, the Charter Board is encouraged to give preference to applications that
3 demonstrate the capability to provide comprehensive learning experiences to students identified
4 by the applicants as at risk of academic failure.

5 (b) Repealed by Session Laws 2011-164, s. 2(a), effective July 1, 2011.

6 (c) ~~The State Charter Board of Education~~ may authorize a school before the applicant
7 has secured its space, equipment, facilities, and personnel if the applicant indicates the
8 authority is necessary for it to raise working capital. ~~The State Board Funds~~ shall not ~~allocate~~
9 ~~any funds~~be allocated to the school until the school has obtained space.

10 (d) ~~The State Charter Board of Education~~ may grant the initial charter for a period not
11 to exceed 10 years and may renew the charter upon the request of the ~~chartering entity~~charter
12 school for subsequent periods not to exceed 10 years each. ~~The State Charter Board of~~
13 ~~Education~~ shall review the operations of each charter school at least once every five years to
14 ensure that the school is meeting the expected academic, financial, and governance standards.

15 A material revision of the provisions of a charter application shall be made only upon the
16 approval of the ~~State Board of Education~~Charter Board.

17 It shall not be considered a material revision of a charter application and shall not require
18 the prior approval of the ~~State Charter Board~~ for a charter school to increase its enrollment
19 during the charter school's second year of operation and annually thereafter (i) by up to twenty
20 percent (20%) of the school's previous year's enrollment or (ii) in accordance with planned
21 growth as authorized in the charter. Other enrollment growth shall be considered a material
22 revision of the charter application, and the ~~State Charter Board~~ may approve such additional
23 enrollment growth of greater than twenty percent (20%) only if the ~~State Charter Board~~ finds
24 ~~that:~~all of the following:

25 (1) The actual enrollment of the charter school is within ten percent (10%) of its
26 maximum authorized ~~enrollment;~~enrollment.

27 (2) The charter school has commitments for ninety percent (90%) of the
28 requested maximum ~~growth;~~growth.

29 (3) ~~The board of education of the local school administrative unit in which the~~
30 ~~charter school is located has had an opportunity to be heard by the State~~
31 ~~Board of Education on any adverse impact the proposed growth would have~~
32 ~~on the unit's ability to provide a sound basic education to its students;~~

33 (4) The charter school is not currently identified as
34 ~~low performing;~~low-performing.

35 (5) The charter school meets generally accepted standards of fiscal
36 ~~management;~~and management.

37 (6) It is otherwise appropriate to approve the enrollment growth."

38 **SECTION 1.(e)** G.S. 115C-238.29E reads as rewritten:

39 **"§ 115C-238.29E. Charter school operation.**

40 (a) A charter school that is approved by the State shall be a public school within the
41 local school administrative unit in which it is located. ~~It shall be accountable to the local board~~
42 ~~of education if it applied for and received preliminary approval from that local board for~~
43 ~~purposes of ensuring compliance with applicable laws and the provisions of its charter. All~~
44 ~~other~~ charter schools shall be accountable to the ~~State Charter Board~~ for ensuring compliance
45 with applicable laws and the provisions of their ~~charters, except that any of these charter~~
46 ~~schools may agree to be accountable to the local board of the school administrative unit in~~
47 ~~which the charter school is located rather than to the State Board.~~charters.

48 (b) A charter school shall be operated by a private nonprofit corporation that shall have
49 received federal tax-exempt status no later than 24 months following final approval of the
50 application.

1 (c) A charter school shall operate under the written charter signed by the entity to which
2 it is accountable under subsection (a) of this section Charter Board and the applicant. A charter
3 school is not required to enter into any other contract. The charter shall incorporate the
4 information provided in the application, as modified during the charter approval process, and
5 any terms and conditions imposed on the charter school by the ~~State Charter Board of~~
6 ~~Education~~. No other terms may be imposed on the charter school as a condition for receipt of
7 local funds.

8 (d) The board of directors of the charter school shall decide matters related to the
9 operation of the school, including budgeting, curriculum, and operating procedures.

10 (e) A charter school's specific location shall not be prescribed or limited by a local
11 board or other authority except a zoning authority. The school may lease space from a local
12 board of education or as is otherwise lawful in the local school administrative unit in which the
13 charter school is located. If a charter school leases space from a sectarian organization, the
14 charter school classes and students shall be physically separated from any parochial students,
15 and there shall be no religious artifacts, symbols, iconography, or materials on display in the
16 charter school's entrance, classrooms, or hallways. Furthermore, if a charter school leases space
17 from a sectarian organization, the charter school shall not use the name of that organization in
18 the name of the charter school.

19 At the request of the charter school, the local board of education of the local school
20 administrative unit in which the charter school will be located shall lease any available building
21 or land to the charter school unless the board demonstrates that the lease is not economically or
22 practically feasible or that the local board does not have adequate classroom space to meet its
23 enrollment needs. Notwithstanding any other law, a local board of education may provide a
24 school facility to a charter school free of charge; however, the charter school is responsible for
25 the maintenance of and insurance for the school facility. If a charter school has requested to
26 lease available buildings or land and is unable to reach an agreement with the local board of
27 education, the charter school shall have the right to appeal to the board of county
28 commissioners in which the building or land is located. The board of county commissioners
29 shall have the final decision-making authority on the leasing of the available building or land.

30 (f) Except as provided in this Part and pursuant to the provisions of its charter, a charter
31 school is exempt from statutes and rules applicable to a local board of education or local school
32 administrative unit."

33 **SECTION 1.(f)** G.S. 115C-238.29F reads as rewritten:

34 "**§ 115C-238.29F. General requirements.**

35 (a) Health and Safety Standards. – A charter school shall meet the same health and
36 safety requirements required of a local school administrative unit. The Department of Public
37 Instruction shall ensure that charter schools provide parents and guardians with information
38 about meningococcal meningitis and influenza and their vaccines at the beginning of every
39 school year. This information shall include the causes, symptoms, and how meningococcal
40 meningitis and influenza are spread and the places where parents and guardians may obtain
41 additional information and vaccinations for their children.

42 The Department of Public Instruction shall also ensure that charter schools provide parents
43 and guardians with information about cervical cancer, cervical dysplasia, human
44 papillomavirus, and the vaccines available to prevent these diseases. This information shall be
45 provided at the beginning of the school year to parents of children entering grades five ~~through~~
46 through 12. This information shall include the causes and symptoms of these diseases, how
47 they are transmitted, how they may be prevented by vaccination, including the benefits and
48 possible side effects of vaccination, and the places where parents and guardians may obtain
49 additional information and vaccinations for their children.

1 The Department of Public Instruction shall also ensure that charter schools provide students
2 in grades nine through 12 with information annually on the manner in which a parent may
3 lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500.

4 The Department of Public Instruction shall also ensure that the guidelines for individual
5 diabetes care plans adopted by the State Board of Education under G.S. 115C-12(31) are
6 implemented in charter schools in which students with diabetes are enrolled and that charter
7 schools otherwise comply with the provisions of G.S. 115C-375.3.

8 (b) School Nonsectarian. – A charter school shall be nonsectarian in its programs,
9 admission policies, employment practices, and all other operations and shall not charge tuition
10 or fees, except that a charter school may charge any fees that are charged by the local school
11 administrative unit in which the charter school is located. A charter school shall not be
12 affiliated with a nonpublic sectarian school or a religious institution.

13 (c) Civil Liability and Insurance. –

14 (1) The board of directors of a charter school may sue and be sued. The ~~State~~
15 ~~Charter Board of Education~~ shall adopt rules to establish reasonable amounts
16 and types of liability insurance that the board of directors shall be required
17 by the charter to obtain. The board of directors shall obtain at least the
18 amount of and types of insurance required by these rules to be included in
19 the charter. Any sovereign immunity of the charter school, of the
20 organization that operates the charter school, or its members, officers, or
21 directors, or of the employees of the charter school or the organization that
22 operates the charter school, is waived to the extent of indemnification by
23 insurance.

24 (2) No civil liability shall attach to ~~any chartering entity,~~ the Charter Board, to
25 the State Board of Education, or to any of their members or employees,
26 individually or collectively, for any acts or omissions of the charter school.

27 (d) Instructional Program. –

28 (1) The school shall provide instruction each year for at least 185 days or 1,025
29 hours over nine calendar months.

30 (2) The school shall design its programs to at least meet the student performance
31 standards adopted by the State Board of Education and the student
32 performance standards contained in the charter.

33 (3) A charter school shall conduct the student assessments required ~~for charter~~
34 ~~schools~~ by the State Board of Education.

35 (4) The school is subject to and shall comply with Article 9 of Chapter 115C of
36 the General Statutes and The Individuals with Disabilities Education
37 Improvements Act, 20 U.S.C. § 1400, et seq., (2004), as amended, shall
38 ~~comply with policies adopted by the State Board of Education for charter~~
39 ~~schools relating to the education of children with disabilities.~~

40 (5) The school is subject to and shall comply with Article 27 of Chapter 115C of
41 the General Statutes, except that a charter school may also exclude a student
42 from the charter school and return that student to another school in the local
43 school administrative unit in accordance with the terms of its ~~charter~~ charter
44 after due process.

45 (d1) Reading Proficiency and Student Promotion. –

46 (1) Students in the third grade shall be retained if the student fails to
47 demonstrate reading proficiency by reading at or above the third grade level
48 as demonstrated by the results of the State-approved standardized test of
49 reading comprehension administered to third grade students. The charter
50 school shall provide reading interventions to retained students to remediate
51 reading deficiency, which may include 90 minutes of daily, uninterrupted,

- 1 evidence-based reading instruction, accelerated reading classes, transition
2 classes containing third and fourth grade students, and summer reading
3 camps.
- 4 (2) Students may be exempt from mandatory retention in third grade for good
5 cause but shall continue to receive instructional supports and services and
6 reading interventions appropriate for their age and reading level. Good cause
7 exemptions shall be limited to the following:
- 8 a. Limited English Proficient students with less than two years of
9 instruction in an English as a Second Language program.
- 10 b. Students with disabilities, as defined in G.S. 115C-106.3(1), whose
11 individualized education program indicates the use of alternative
12 assessments and reading interventions.
- 13 c. Students who demonstrate reading proficiency appropriate for third
14 grade students on an alternative assessment of reading
15 comprehension. The charter school shall notify the State Board of
16 Education of the alternative assessment used to demonstrate reading
17 proficiency.
- 18 d. Students who demonstrate, through a student reading portfolio,
19 reading proficiency appropriate for third grade students.
- 20 e. Students who have (i) received reading intervention and (ii)
21 previously been retained more than once in kindergarten, first,
22 second, or third grades.
- 23 (3) The charter school shall provide notice to parents and guardians when a
24 student is not reading at grade level. The notice shall state that if the
25 student's reading deficiency is not remediated by the end of third grade, the
26 student shall be retained unless he or she is exempt from mandatory
27 retention for good cause. Notice shall also be provided to parents and
28 guardians of any student who is to be retained under this subsection of the
29 reason the student is not eligible for a good cause exemption, as well as a
30 description of proposed reading interventions that will be provided to the
31 student to remediate identified areas of reading deficiency.
- 32 (4) The charter school shall annually publish on the charter school's Web site
33 and report in writing to the State Board of Education by September 1 of each
34 year the following information on the prior school year:
- 35 a. The number and percentage of third grade students demonstrating
36 and not demonstrating reading proficiency on the State-approved
37 standardized test of reading comprehension administered to third
38 grade students.
- 39 b. The number and percentage of third grade students not demonstrating
40 reading proficiency and who do not return to the charter school for
41 the following school year.
- 42 c. The number and percentage of third grade students who take and
43 pass the alternative assessment of reading comprehension.
- 44 d. The number and percentage of third grade students retained for not
45 demonstrating reading proficiency.
- 46 e. The number and percentage of third grade students exempt from
47 mandatory third grade retention by category of exemption as listed in
48 subdivision (2) of this subsection.
- 49 (e) Employees. –
- 50 (1) An employee of a charter school is not an employee of the local school
51 administrative unit in which the charter school is located. The charter

1 school's board of directors shall employ and contract with necessary teachers
2 to perform the particular service for which they are employed in the school;
3 ~~at least seventy five percent (75%) of these teachers in grades kindergarten~~
4 ~~through five, at least fifty percent (50%) of these teachers in grades six~~
5 ~~through eight, and at least fifty percent (50%) of these teachers in grades~~
6 ~~nine through 12 shall hold teacher certificates.~~ school. All teachers in grades
7 six through 12 who are teaching in the core subject areas of mathematics,
8 science, social studies, and language arts shall be college graduates.

9 The board also may employ necessary employees who are not required
10 to hold teacher ~~certificates~~ licenses to perform duties other than teaching and
11 may contract for other services. The board may discharge teachers and
12 ~~noncertificated nonlicensed~~ employees.

13 (2) No local board of education shall require any employee of the local school
14 administrative unit to be employed in a charter school.

15 (3) If a teacher employed by a local school administrative unit makes a written
16 request for a leave of absence to teach at a charter school, the local school
17 administrative unit shall grant the leave for one year. For the initial year of a
18 charter school's operation, the local school administrative unit may require
19 that the request for a leave of absence be made up to 45 days before the
20 teacher would otherwise have to report for duty. After the initial year of a
21 charter school's operation, the local school administrative unit may require
22 that the request for a leave of absence be made up to 90 days before the
23 teacher would otherwise have to report for duty. A local board of education
24 is not required to grant a request for a leave of absence or a request to extend
25 or renew a leave of absence for a teacher who previously has received a
26 leave of absence from that school board under this subdivision. A teacher
27 who has career status under G.S. 115C-325 prior to receiving a leave of
28 absence to teach at a charter school may return to a public school in the local
29 school administrative unit with career status at the end of the leave of
30 absence or upon the end of employment at the charter school if an
31 appropriate position is available. If an appropriate position is unavailable,
32 the teacher's name shall be placed on a list of available teachers and that
33 teacher shall have priority on all positions for which that teacher is qualified
34 in accordance with G.S. 115C-325(e)(2).

35 (4) The employees of the charter school shall be deemed employees of the local
36 school administrative unit for purposes of providing certain State-funded
37 employee benefits, including membership in the Teachers' and State
38 Employees' Retirement System and the State Health Plan for Teachers and
39 State Employees. The State Board of Education provides funds to charter
40 schools, and the Charter Board approves the original members of the boards
41 of directors of the charter schools, has the authority to grant, supervise, and
42 revoke charters, and demands full accountability from charter schools for
43 school finances and student performance. Accordingly, it is the
44 determination of the General Assembly that charter schools are public
45 schools and that the employees of charter schools are public school
46 employees. Employees of a charter school whose board of directors elects to
47 become a participating employer under G.S. 135-5.3 are "teachers" for the
48 purpose of membership in the North Carolina Teachers' and State
49 Employees' Retirement System. In no event shall anything contained in this
50 Part require the North Carolina Teachers' and State Employees' Retirement

- 1 System to accept employees of a private employer as members or
2 participants of the System.
- 3 (5) Education employee associations shall have equal access to charter school
4 employees as provided in G.S. 115C-335.9.
- 5 (6) If the local board of education of the local school administrative unit in
6 which a charter school is located has adopted a policy requiring criminal
7 history checks under G.S. 115C-332, then the board of directors of each
8 charter school located in that local school administrative unit shall adopt a
9 policy mirroring the local board of education policy that requires an
10 applicant for employment to be checked for a criminal history, as defined in
11 G.S. 115C-332. Each charter school board of directors shall apply its policy
12 uniformly in requiring applicants for employment to be checked for a
13 criminal history before the applicant is given an unconditional job offer. A
14 charter school board of directors may employ an applicant conditionally
15 while the board is checking the person's criminal history and making a
16 decision based on the results of the check.
- 17 (f) Accountability. –
- 18 (1) The school is subject to the financial audits, the audit procedures, and the
19 audit requirements adopted by the ~~State Charter Board of Education~~ for
20 charter schools. These audit requirements may include the requirements of
21 the School Budget and Fiscal Control Act.
- 22 (2) The school shall comply with the reporting requirements established by the
23 State Board of Education in the Uniform Education Reporting
24 ~~System~~ System, except that reports shall be made to the Charter Board as
25 well as the State Board of Education.
- 26 (3) The school shall report at least annually to the ~~chartering entity and the~~
27 ~~State Charter Board of Education~~ the information required by the ~~chartering~~
28 ~~entity or the State Charter Board~~.
- 29 (g) Admission Requirements. –
- 30 (1) Any child who is qualified under the laws of this State for admission to a
31 public school is qualified for admission to a charter school.
- 32 (2) No local board of education shall require any student enrolled in the local
33 school administrative unit to attend a charter school.
- 34 (3) Admission to a charter school shall not be determined according to the
35 school attendance area in which a student resides, except that any local
36 school administrative unit in which a public school converts to a charter
37 school shall give admission preference to students who reside within the
38 former attendance area of that school.
- 39 (4) Admission to a charter school shall not be determined according to the local
40 school administrative unit in which a student resides.
- 41 (5) A charter school shall not discriminate against any student on the basis of
42 ethnicity, national origin, gender, or disability. Except as otherwise provided
43 by law or the mission of the school as set out in the charter, the school shall
44 not limit admission to students on the basis of intellectual ability, measures
45 of achievement or aptitude, athletic ability, disability, race, creed, gender,
46 national origin, religion, or ancestry. The charter school may give enrollment
47 priority to siblings of currently enrolled students who were admitted to the
48 charter school in a previous year and to children of the school's principal,
49 teachers, and teacher assistants. In addition, and only for its first year of
50 operation, the charter school may give enrollment priority to children of the
51 initial members of the charter school's board of directors, so long as (i) these

1 children are limited to no more than ten percent (10%) of the school's total
2 enrollment or to 20 students, whichever is less, and (ii) the charter school is
3 not a former public ~~or private~~ school. If multiple ~~birth~~-siblings apply for
4 admission to a charter school and a lottery is needed under
5 G.S. 115C-238.29F(g)(6), the charter school shall enter one surname into the
6 lottery to represent all of the multiple ~~birth~~-siblings. If that surname of the
7 multiple ~~birth~~-siblings is selected, then all of the multiple ~~birth~~-siblings shall
8 be admitted. Within one year after the charter school begins operation, the
9 population of the school shall make efforts to reasonably reflect the racial
10 and ethnic composition of the general population residing within the local
11 school administrative unit in which the school is located or the racial and
12 ethnic composition of the special population that the school seeks to serve
13 residing within the local school administrative unit in which the school is
14 located. The school shall be subject to any court-ordered desegregation plan
15 in effect for the local school administrative unit.

16 (6) During each period of enrollment, the charter school shall enroll an eligible
17 student who submits a timely application, unless the number of applications
18 exceeds the capacity of a program, class, grade level, or building. In this
19 case, students shall be accepted by lot. Once enrolled, students are not
20 required to reapply in subsequent enrollment periods.

21 (7) Notwithstanding any law to the contrary, a charter school may refuse
22 admission to any student who has been expelled or suspended from a public
23 school under G.S. 115C-390.5 through G.S. 115C-390.11 until the period of
24 suspension or expulsion has expired.

25 (h) Transportation. – The charter school may provide transportation for students
26 enrolled at the school. The charter school shall develop a transportation plan so that
27 transportation is not a barrier to any student who resides in the local school administrative unit
28 in which the school is located. The charter school is not required to provide transportation to
29 any student who lives within one and one-half miles of the school. At the request of the charter
30 school and if the local board of the local school administrative unit in which the charter school
31 is located operates a school bus system, then that local board may contract with the charter
32 school to provide transportation in accordance with the charter school's transportation plan to
33 students who reside in the local school administrative unit and who reside at least one and
34 one-half miles of the charter school. A local board may charge the charter school a reasonable
35 charge that is sufficient to cover the cost of providing this transportation. Furthermore, a local
36 board may refuse to provide transportation under this subsection if it demonstrates there is no
37 available space on buses it intends to operate during the term of the contract or it would not be
38 practically feasible to provide this transportation.

39 (i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the
40 charter, all net assets of the charter school purchased with public funds shall be deemed the
41 property of the ~~local school administrative unit in which the charter school is located.~~ State and
42 shall be returned to the General Fund.

43 (j) Driving Eligibility Certificates. – In accordance with rules adopted by the State
44 Board of Education, the designee of the school's board of directors shall do all of the following:

45 (1) Sign driving eligibility certificates that meet the conditions established in
46 G.S. 20-11.

47 (2) Obtain the necessary written, irrevocable consent from parents, guardians, or
48 emancipated juveniles, as appropriate, in order to disclose information to the
49 Division of Motor Vehicles.

50 (3) Notify the Division of Motor Vehicles when a student who holds a driving
51 eligibility certificate no longer meets its conditions.

1 (k) The Display of the United States and North Carolina Flags and the Recitation of the
2 Pledge of Allegiance. – A charter school shall (i) display the United States and North Carolina
3 flags in each classroom when available, (ii) require the recitation of the Pledge of Allegiance on
4 a daily basis, and (iii) provide age-appropriate instruction on the meaning and historical origins
5 of the flag and the Pledge of Allegiance. A charter school shall not compel any person to stand,
6 salute the flag, or recite the Pledge of Allegiance. If flags are donated or are otherwise
7 available, flags shall be displayed in each classroom.

8 (l) North Carolina School Report Cards. – A charter school shall ensure that the report
9 card issued for it by the State Board of Education receives wide distribution to the local press
10 or is otherwise provided to the public. A charter school shall ensure that the overall school
11 performance score and grade earned by the charter school for the current and previous four
12 school years is prominently displayed on the school Web site. If a charter school is awarded a
13 grade of D or F, the charter school shall provide notice of the grade in writing to the parent or
14 guardian of all students enrolled in that school."

15 **SECTION 1.(g)** G.S. 115C-238.29G reads as rewritten:

16 **"§ 115C-238.29G. Causes for nonrenewal or termination; disputes.**

17 (a) ~~The State Board of Education, or a chartering entity subject to the approval of the~~
18 ~~State Board of Education, Charter Board~~ may ~~terminate or not renew a charter~~terminate, not
19 renew, or seek applicants to assume the charter through a competitive bid process established
20 by the Charter Board upon any of the following grounds:

- 21 (1) Failure to meet the requirements for student performance contained in the
22 charter;
- 23 (2) Failure to meet generally accepted standards of fiscal management;
- 24 (3) Violations of law;
- 25 (4) Material violation of any of the conditions, standards, or procedures set forth
26 in the charter;
- 27 (5) Two-thirds of the faculty and instructional support personnel at the school
28 request that the charter be terminated or not renewed; or
- 29 (6) Other good cause identified.

30 (a1) ~~The State Charter Board~~ shall adopt criteria for adequate performance by a charter
31 school and shall identify charter schools with inadequate performance. The criteria shall
32 include a requirement that a charter school which demonstrates no growth in student
33 performance and has annual performance composites below sixty percent (60%) in any two
34 years in a three-year period is inadequate.

- 35 (1) If a charter school is inadequate in the first five years of the charter, the
36 charter school shall develop a strategic plan to meet specific goals for
37 student performance that are consistent with ~~State Charter~~ Board criteria and
38 the mission approved in the charter school. The strategic plan shall be
39 reviewed and approved by the ~~State Charter~~ Board. The ~~State Charter~~ Board
40 is authorized to terminate or not renew a charter for failure to demonstrate
41 improvement under the strategic plan.
- 42 (2) If a charter school is inadequate and has had a charter for more than five
43 years, the ~~State Charter~~ Board is authorized to terminate, not renew, or seek
44 applicants to assume the charter through a competitive bid process
45 established by the Charter Board. ~~terminate or not renew the charter.~~The
46 Charter Board shall develop rules on the assumption of a charter by a new
47 entity that include all aspects of the operations of the charter school,
48 including the status of the employees. Public assets would transfer to the
49 new entity and not revert to the General Fund pursuant to
50 G.S. 115C-238.29F(i).

1 (b) The ~~State-Charter~~ Board of Education shall develop and implement a process to
2 address contractual and other grievances between a charter school and its chartering entity or
3 the local board of education during the time of its charter.

4 (c) The ~~State-Charter~~ Board and the charter school are encouraged to make a good-faith
5 attempt to resolve the differences that may arise between them. They may agree to jointly select
6 a mediator. The mediator shall act as a neutral facilitator of disclosures of factual information,
7 statements of positions and contentions, and efforts to negotiate an agreement settling the
8 differences. The mediator shall, at the request of either the ~~State-Charter~~ Board or a charter
9 school, commence a mediation immediately or within a reasonable period of time. The
10 mediation shall be held in accordance with rules and standards of conduct adopted under
11 Chapter 7A of the General Statutes governing mediated settlement conferences but modified as
12 appropriate and suitable to the resolution of the particular issues in disagreement.

13 Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation
14 proceedings shall be conducted in private. Evidence of statements made and conduct occurring
15 in a mediation are not subject to discovery and are inadmissible in any court action. However,
16 no evidence otherwise discoverable is inadmissible merely because it is presented or discussed
17 in a mediation. The mediator shall not be compelled to testify or produce evidence concerning
18 statements made and conduct occurring in a mediation in any civil proceeding for any purpose,
19 except disciplinary hearings before the State Bar or any agency established to enforce standards
20 of conduct for mediators. The mediator may determine that an impasse exists and discontinue
21 the mediation at any time. The mediator shall not make any recommendations or public
22 statement of findings or conclusions. The ~~State-Charter~~ Board and the charter school shall share
23 equally the mediator's compensation and expenses. The mediator's compensation shall be
24 determined according to rules adopted under Chapter 7A of the General Statutes."

25 **SECTION 1.(h)** G.S. 115C-238.29H reads as rewritten:

26 "**§ 115C-238.29H. State and local funds for a charter school.**

27 (a) The State Board of Education shall allocate to each charter school:

- 28 (1) An amount equal to the average per pupil allocation for average daily
29 membership from the local school administrative unit allotments in which
30 the charter school is located for each child attending the charter school
31 except for the allocation for children with disabilities and for the allocation
32 for children with limited English proficiency;
- 33 (2) An additional amount for each child attending the charter school who is a
34 child with disabilities; and
- 35 (3) An additional amount for children with limited English proficiency attending
36 the charter school, based on a formula adopted by the State Board.

37 ~~In accordance with G.S. 115C-238.29D(d), the~~ The State Board shall allow for annual
38 adjustments to the amount allocated to a charter school based on its enrollment growth in
39 school years subsequent to the initial year of operation.

40 In the event a child with disabilities leaves the charter school and enrolls in a public school
41 during the first 60 school days in the school year, the charter school shall return a pro rata
42 amount of funds allocated for that child to the State Board, and the State Board shall reallocate
43 those funds to the local school administrative unit in which the public school is located. In the
44 event a child with disabilities enrolls in a charter school during the first 60 school days in the
45 school year, the State Board shall allocate to the charter school the pro rata amount of
46 additional funds for children with disabilities.

47 (a1) Funds allocated by the State Board of Education may be used to enter into
48 operational and financing leases for real property or mobile classroom units for use as school
49 facilities for charter schools and may be used for payments on loans made to charter schools for
50 facilities or equipment. However, State funds shall not be used to obtain any other interest in
51 real property or mobile classroom units. No indebtedness of any kind incurred or created by the

1 charter school shall constitute an indebtedness of the State or its political subdivisions, and no
 2 indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing
 3 power of the State or its political subdivisions. Every contract or lease into which a charter
 4 school enters shall include the previous sentence. The school also may own land and buildings
 5 it obtains through non-State sources.

6 (b) If a student attends a charter school, the local school administrative unit in which
 7 the child resides shall transfer to the charter school an amount equal to the per pupil share of
 8 the local current expense appropriation to fund of the local school administrative unit for the
 9 fiscal year. The amount transferred under this subsection that consists of revenue derived from
 10 supplemental taxes shall be transferred only to a charter school located in the tax district for
 11 which these taxes are levied and in which the student resides. The per pupil share of the local
 12 current expense fund shall be transferred to the charter school within 30 days of the receipt of
 13 monies into the local current expense fund.

14 (c) The local school administrative unit shall also provide each charter school to which
 15 it transfers a per pupil share of its local current expense fund with all of the following
 16 information within the 30-day time period provided in subsection (b) of this section:

17 (1) The total amount of monies the local school administrative unit has in each
 18 of the funds listed in G.S. 115C-426(c).

19 (2) The student membership numbers used to calculate the per pupil share of the
 20 local current expense fund.

21 (3) How the per pupil share of the local current expense fund was calculated.

22 (d) The court shall award the prevailing party in an action to enforce the provisions of
 23 subsection (b) of this section its reasonable attorneys' fees and costs incurred in bringing such
 24 an action, plus interest at the legal rate as provided in G.S. 24-1 from and after the date that any
 25 such amounts should have otherwise been paid to the charter school for a fiscal year. The court
 26 shall order any delinquent funds, costs, fees, and interest to be paid in full within three years
 27 from the entry of any judgment."

28 **SECTION 1.(i) G.S. 115C-238.29I reads as rewritten:**

29 **"§ 115C-238.29I. Notice of the charter school process; review of charter schools; Charter**
 30 **School Advisory Committee schools.**

31 (a) ~~The State Charter Board of Education~~ shall distribute information announcing the
 32 availability of the charter school process described in this Part to each local school
 33 administrative unit and public postsecondary educational institution and, through press releases,
 34 to each major newspaper in the State.

35 (b) Repealed by Session Laws 1997-18, s. 15(i).

36 (c) ~~The State Charter Board of Education~~ shall review and evaluate the educational
 37 effectiveness of the charter ~~school approach~~ schools authorized under this Part and the effect of
 38 charter schools on the public schools in the local school administrative unit in which the charter
 39 schools are located. The Board shall report annually no later than January 1, 2002, 1 to the Joint
 40 Legislative Education Oversight Committee ~~with recommendations to modify, expand, or~~
 41 ~~terminate that approach. The Board shall base its recommendations predominantly on the~~
 42 following information: on the following:

43 (1) The current and projected impact of charter schools on the delivery of
 44 services by the public schools.

45 (2) Student academic progress in the charter schools as measured, where
 46 available, against the academic year immediately preceding the first
 47 academic year of the charter schools' operation.

48 (3) Best practices resulting from charter school operations.

49 (4) Other information the ~~State Charter~~ Board considers appropriate.

50 (d) ~~The State Board of Education may establish a Charter School Advisory Committee~~
 51 ~~to assist with the implementation of this Part. The Charter School Advisory Committee may (i)~~

1 provide technical assistance to chartering entities or to potential applicants, (ii) review
 2 applications for preliminary approval, (iii) make recommendations as to whether the State
 3 Board should approve applications for charter schools, (iv) make recommendations as to
 4 whether the State Board should terminate or not renew a charter, (v) make recommendations
 5 concerning grievances between a charter school and its chartering entity, the State Board, or a
 6 local board, (vi) assist with the review under subsection (c) of this section, and (vii) provide
 7 any other assistance as may be required by the State Board.

8 (e) Notwithstanding the dates set forth in this Part, the State Board of Education may
 9 establish an alternative time line for the submission of applications, preliminary approvals,
 10 eriminal record checks, appeals, and final approvals so long as the Board grants final approval
 11 by March 15 of each calendar year."

12 **SECTION 1.(j)** G.S. 115C-238.29J is repealed.

13 **SECTION 1.(k)** G.S. 115C-238.29K is repealed.

14 **SECTION 2.(a)** G.S. 115C-426(c) reads as rewritten:

15 "(c) The uniform budget format shall require the following funds:

- 16 (1) The State Public School Fund.
- 17 (2) The local current expense fund.
- 18 (3) The capital outlay fund.

19 In addition, other funds may be used to account for reimbursements, including indirect
 20 costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method
 21 pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, trust
 22 funds, federal appropriations made directly to local school administrative units, and funds
 23 received for prekindergarten programs, and special programs. In addition, the
 24 appropriation or use of fund balance or interest income by a local school administrative unit
 25 shall not be construed as a local current expense ~~appropriation~~ appropriation included as a part
 26 of the local current expense fund.

27 Each local school administrative unit shall maintain those funds shown in the uniform
 28 budget format that are applicable to its operations."

29 **SECTION 2.(b)** G.S. 115C-448 is amended by adding a new subsection to read:

30 "(d) Special funds of individual schools shall not be included as part of the local current
 31 expense fund of a local school administrative unit for the purposes of determining the per pupil
 32 share of the local current expense fund transferred to a charter school pursuant to
 33 G.S. 115C-238.29H(b)."

34 **SECTION 3.** G.S. 105-275 reads as rewritten:

35 "**§ 105-275. Property classified and excluded from the tax base.**

36 The following classes of property are designated special classes under Article V, Sec. 2(2),
 37 of the North Carolina Constitution and are excluded from tax:

38 ...

- 39 (46) Real property that is occupied by a charter school and is wholly and
 40 exclusively used for educational purposes as defined in G.S. 105-278.4(f)
 41 regardless of the ownership of the property."

42 **SECTION 4.** G.S. 135-5.3(b) reads as rewritten:

43 "(b) No later than 30 days after both parties have signed the written charter under
 44 G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit
 45 corporation shall elect whether to become a participating employer in the Retirement System in
 46 accordance with this Article. This election shall be in writing and filed with the Retirement
 47 System and with the State North Carolina Public Charter Schools Board of Education and is
 48 effective for each charter school employee as of the date of that employee's entry into eligible
 49 service. This subsection applies to charter schools that receive State Board of Education or
 50 North Carolina Public Charter Schools Board approval under G.S. 115C-238.29D after 1998."

51 **SECTION 5.** G.S. 135-48.54(b) reads as rewritten:

1 "(b) No later than 30 days after both parties have signed the written charter under
2 G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit
3 corporation shall elect whether to become a participating employer in the Plan in accordance
4 with this Article. This election shall be in writing and filed with the Plan and the North
5 Carolina Public Charter Schools Board. ~~State Board of Education~~. This election is effective for
6 each charter school employee as of the date of that employee's entry into eligible service. This
7 subsection applies to charter schools that receive State Board of Education or North Carolina
8 Public Charter Schools Board approval under G.S. 115C-238.29D after 1998."

9 **SECTION 6.** Notwithstanding G.S. 115C-238.29A, as amended by this act, initial
10 appointments to the Charter Board shall be made by the Governor and the General Assembly
11 no later than August 1, 2013. Initial terms of office to the Charter Board shall be as follows:

- 12 (1) Two members appointed by the Governor, as designated by the Governor,
13 shall be appointed to serve until June 30, 2015. One member appointed by
14 the Governor, as designated by the Governor, shall be appointed to serve
15 until June 30, 2017.
- 16 (2) One member appointed by the General Assembly upon the recommendation
17 of the Speaker of the House of Representatives, as designated by the
18 Speaker, shall be until June 30, 2015. Two members appointed by the
19 General Assembly upon the recommendation of the Speaker of the House of
20 Representatives, as designated by the Speaker, shall be until June 30, 2017.
- 21 (3) One member appointed by the General Assembly upon the recommendation
22 of the President Pro Tempore of the Senate, as designated by the President
23 Pro Tempore, shall be until June 30, 2015. Two members appointed by the
24 General Assembly upon the recommendation of the President Pro Tempore
25 of the Senate, as designated by the President Pro Tempore, shall be until
26 June 30, 2017.

27 **SECTION 7.** The North Carolina Charter School Advisory Council, as established
28 by the State Board of Education on August 4, 2011, by Policy TCS-B-006, is abolished.

29 **SECTION 8.** Section 3 of this act is effective for taxes imposed for taxable years
30 beginning on or after July 1, 2013. The remainder of this act is effective when it becomes law.
31 G.S. 115C-238.29H(d), as enacted by this act, applies to proceedings commenced on or after
32 the effective date of this act.